

**Minutes of the Regular Planning Board Meeting  
Monday, June 23, 2008**

1.     CONVENE:             7:05 p.m.
2.     FLAG SALUTE:     Board member Cunningham.
3.     ROLL CALL:       President Cook, Vice President Kohlstrand, Board Members  
                                  Autorino, Cunningham, and Ezzy Ashcraft.

Board members Lynch and McNamara were absent from roll call.

Also present were Andrew Thomas, Planning Services Manager, Assistant City Attorney Farimah Faiz; Planner III Dennis Brighton; Planner \_\_ Simone Walter; Obaid Khan, Public Works; Executive Assistant Althea Carter.

5.     AGENDA CHANGES AND DISCUSSION:

President Cook suggested that because of the full agenda, that the items be reordered so that the Consent Calendar and Regular Agenda immediately follow Oral Communications.

Board member Cunningham moved to move Items 4, 5 and 6 to the end of the agenda.

Board member Ezzy Ashcraft seconded the motion, with the following voice vote – 5. Noes: 0  
Absent: 2 (Lynch, McNamara); Abstain: 0. The motion passed.

7.     ORAL COMMUNICATION: None.

8.     CONSENT CALENDAR:

- 8-A.   **DA-99-01 – Catellus Development Corporation.** The applicant requests a Periodic Review of Development Agreement, DA-99-01, for the period from January 2005 through December 2007.

In response to an inquiry by Board member Cunningham regarding the old Clif Bar location, Mr. Thomas replied that Catellus was still working with Clif Bar. The Letter of Intent with Clif Bar had expired approximately one year ago, and that negotiations continued between Catellus and Clif Bar.

President Cook moved to adopt the draft Planning Board Resolution to accept the Periodic Review of Development Agreement, DA-99-01, for the period from January 2005 through December 2007.

Board member Cunningham seconded the motion, with the following voice vote – 5. Noes: 0  
Absent: 2 (Lynch, McNamara); Abstain: 0. The motion passed.

- 8-B. **DA89-01 – Harbor Bay Business Park Association, Harbor Bay Isle Associates and Harbor Bay Entities – Bay Farm Island (Primarily Harbor Bay Isle).** A request for a Periodic Review of Development Agreement DA89-01, for the period through April 4, 2008, as required under Zoning Ordinance Section 30-95.1. The properties are zoned R-1-PD (One Family Residence/Planned Development Zoning District); C-M-PD (Commercial Manufacturing Planned Development Zoning District); O (Open Space Zoning District), and R-1-A-H (One Family Residence with Special Agricultural and Height Limit Combining Zoning District). (Code Enforcement)

President Cook moved to adopt the draft Planning Board Resolution to accept a Periodic Review of Development Agreement DA89-01, for the period through April 4, 2008, as required under Zoning Ordinance Section 30-95.1.

Board member Cunningham seconded the motion, with the following voice vote – 5. Noes: 0  
Absent: 2 (Lynch, McNamara); Abstain: 0. The motion passed.

9. REGULAR AGENDA ITEMS:

- 9-A. **PLN07-0031 and DR07-0086 – RHP Design Group – 2424 Encinal Avenue (KFC Restaurant).** The project entails the complete demolition of the existing 2,366 square foot restaurant and a Design Review for the construction of an approximately 2,016 square foot new restaurant. The restaurant will contain a drive-through, which requires a Use Permit pursuant to AMC 30-4.9A.c.1(r) A parking exception is required for this project, because the eight parking spaces provided for this project are less than the required 20 parking spaces pursuant to AMC 30-4.9A.g.8. The project is located in a C-C-T, Community Commercial Theatre District. (SW)

Ms. Wolter summarized the staff report and displayed a PowerPoint presentation, and noted that there was no parking exception required at this project location, and that reference should be struck. Staff recommended approval of this project as stated in the revised resolution.

In response to an inquiry by President Cook whether the signs would be part of this approval, Ms. Wolter replied that signs would be approved separately.

In response to an inquiry by Board member Ezzy Ashcraft regarding odors, Ms. Wolter replied that because new mechanical equipment would be installed, the applicant has advised that the current odors would not be emitted. Board member Ezzy Ashcraft added that she would like to see the trash picked up on a daily basis.

The public hearing was opened.

Mr. Robb Ratto, Executive Director, PSBA, spoke in support of this project. He was happy to see that the applicant, the City and the residents had worked together to craft this agreement. He

noted that PSBA supported the demolition of the current building. He was happy to hear that a parking exception was not needed. He noted that the new building would be better-looking and better-functioning.

Mr. Christopher Buckley, 1017 San Antonio Avenue, agreed that the new design would be a big improvement over the current building. He was surprised that the signage would not be considered at this meeting, and he believed it was an integral part of the overall design. He noted that the existing pole sign was 12 feet tall, which he believed was too tall. He believed a monument sign should be placed on a base, not a pole. He suggested that the sign be six feet tall, rather than 12 feet tall. He noted that the drive-through signs were also pole-type signs, and suggested that they be converted to a monument sign with a solid base.

The public hearing was closed for Board discussion.

Board member Ezzy Ashcraft noted that she liked the new design, which was much more harmonious with the neighborhood. She was concerned with the drive-through effect on the environment and air quality. She noted that a car idling for two minutes uses the same amount of fuel as it took to drive one mile, and that idling cars cause a negative impact on health. She noted that an alternative to idling is to park the car, order, and return to the car. She understood that the restaurant was set up more as a take-out restaurant. She believed that the City should be a good steward of the environment. She would like to see a slight redesign to provide on-site parking instead of the drive-through.

Vice President Kohlstrand shared Board member Ezzy Ashcraft's concerns with respect to the drive-through and trash cleanup. She endorsed a daily cleanup. She agreed the building design had improved, and she was concerned that the restaurant rested up against the sidewalk. She inquired about the limitations on drive-through restaurants in any zoning area in the City.

Mr. Brighton noted that drive-through restaurants were prohibited in some areas on Webster Street, but not on Park Street.

Mr. Thomas believed the current drive-through was done with permits, although staff had not located those records.

Board member Cunningham would like to hear from the applicant regarding the drive-through element. He inquired about employee break areas. Mr. Thomas noted that they were not discussed in reviewing the application.

Board member Cunningham inquired whether the Police Department had reviewed the security of this project. Mr. Thomas confirmed that they had, and that they were satisfied.

Board member Cunningham inquired if wood windows had been considered to blend with the historical elements.

Board member Autorino shared the concerns regarding the trash pickup, and believed that daily pickups were significantly better. He believed the design was significantly improved over the

previous design, and noted that it was already a drive-through. He believed that the applicant had the ability to continue that use.

President Cook shared the concerns about a drive-through, as well as how it got there. She was concerned about the queuing for cars, and inquired whether there would be more cars than could be handled.

Ms. Wolter noted that in order to have the drive-through, the parking must be arranged in such a way so that the back-up would meet the development code, thus facing the building. She noted that Public Works had examined this item, and added that Obaid Khan would be available for questions.

Mr. Thomas noted that if the queue got to be 10 to 12 cars long, people in the parking area would have a difficult time getting out. He noted that based on the current sales figures, staff did not believe the line would get long enough to extend into the public right of way on Encinal; which was staff's primary concern. He noted that a use permit could be revoked, and that the conditions requiring management of the auto queue, monitoring, and review were an important part of this application.

President Cook wished to be clear about the possibility of revoking the use permit for the drive-through if it did not work.

Board member Cunningham inquired whether Public Works had a comment on the distances between curb cuts.

Obaid Khan, Public Works, noted that they examined the driveway's location, and added that putting the driveway exit onto Park Avenue would increase traffic circulation onto a residential street. Staff considered that it would be a better solution to provide an exit and entrance at the same site. He noted that there was considerable traffic on Encinal, and staff's concerns were the reason for placing a nine-month review. He noted that staff wished to keep the exiting driveway as far away as possible from an intersection.

Board member Cunningham noted there was a balance between pedestrian safety and vehicular movement.

Mr. Khan noted that any queue on Encinal should be kept away from the intersection.

President Cook believed that if the restaurant's traffic was queuing onto Encinal, there should not be a drive-through. She noted that between the bus traffic, the Fire Department, the gas station and the high school foot traffic, she did not believe any queuing should be allowed onto Encinal, or that the drive-through should not be operated unless it could be done safely. She suggested that Condition 15 be tightened, and would like to hear from the applicant.

Karen [Gutke], Harmon Management, explained the operations of the company, noting that it was the first franchisee of KFC. She added that the store managers had an ownership interest in the restaurant, which enabled them to be run better than the national average. Their goal was to

never have cars queued into the street, and that they had a seven-car stack. She noted that it was imperative that they have the drive-through, and that the majority of the food that went home with the customer did so at the drive-through. She agreed that the trash should be picked up more frequently, and would be happy to ensure that would happen.

Vice President Kohlstrand noted that she was not generally in favor of drive-throughs, but she appreciated the applicant's efforts to improve the circulation on-site and get the queuing on-site. She was sensitive to the fact that the existing drive-through did not work very well. She liked President Cook's comment that if a problem with queuing on Encinal occurred, then it may be an issue of the site being too small for a drive-through. She supported the idea of monitoring this site for a nine-month period, and ensuring that the studies be performed during the school year rather than the summer in order to get a good sense of the implications for the afternoon activity during the school year. She suggested considering the broader issue of allowing future drive-throughs in the Park Street vicinity.

President Cook proposed that the conditions be changed so that if necessary, the use permit may be revoked in order to ensure safe street and pedestrian operations, and that the item may be brought back before the Planning Board.

Mr. Thomas noted that a condition could be added, making it very clear that the use permits can be revoked after a noticed public hearing. Staff will monitor the conditions, and if a problem has been found, it will be brought before the Board; staff did not wish to set the item for a fixed review.

President Cook suggested that be included in Condition 15. She further suggested that Condition 8 be changed to require that the site be cleaned of trash on a daily basis. She noted that Condition 9 discussed the applicant's need to get the necessary encroachment permit from CalTrans for the main driveway.

Mr. Thomas noted that Encinal was a state highway, and that if CalTrans did not approve it, they would not want the project to move forward. He added that the Fire Department has examined this project as well.

President Cook would like an additional condition that wood windows and doors be added where appropriate.

Board member Ezzy Ashcraft noted that she liked the wood-clad doors.

Vice President Kohlstrand noted that wood doors were more residential, and that most businesses had metal-framed doors.

Board member Cunningham noted that there were some wood doors on Park Street.

President Cook suggested the use of a wood door, or a door that was compatible with the window treatment.

Board member Cunningham to move to adopt the draft Planning Board Resolution to approve the complete demolition of the existing 2,366 square foot restaurant and a Design Review for the construction of an approximately 2,016 square foot new restaurant. The restaurant will contain a drive-through, which requires a Use Permit pursuant to AMC 30-4.9A.c.1(r) A parking exception is required for this project, because the eight parking spaces provided for this project are less than the required 20 parking spaces pursuant to AMC 30-4.9A.g.8. The following modifications will be included:

1. Wood windows and a door to match;
2. The use permit may be revoked if the conditions have not been complied with;
3. The trash will be picked up daily; and
4. Traffic monitoring will occur during the school year.

Board member Autorino seconded the motion, with the following voice vote – 4. Noes: 1 (Ezzy Ashcraft) Absent: 2 (Lynch, McNamara); Abstain: 0. The motion passed.

President Cook invited comment on signage, and agreed with Mr. Buckley's comment that the old-fashioned pole signs were inappropriate. She requested staff's comments on the signage.

Ms. Wolter replied that the overall square footage as presented in the design review was currently too large, and that the wall signs would be reduced. In addition, the directional signs may be approved by the Planning & Building Director. She noted that the pole sign would not be approved as it stood, and that concern may be alleviated.

In response to an inquiry by President Cook regarding the presence of "The Colonel" on the sign, Ms. Gutke replied that was always a part of the company's identity.

President Cook noted that the improvements were very much appreciated.

9-B. **PLN08-0153 - General Plan Amendment – 2400 Mariner Square Drive.** The applicant is requesting a General Plan Amendment for the MU2 Mariner Square Specific Mixed Use Area to permit additional office use. The site is located at 2400 Mariner Square Drive within M-2-PD General Industrial (Manufacturing) Planned Development Zoning District. (Code Enforcement). **(The applicant has requested this item be continued to the regularly scheduled Planning Board meeting of August 11, 2008.)**

This item was continued to the Planning Board meeting of August 11, 2008.

9-C. **DR07-0056 – Major Design Review – 3327 Fernside Blvd.** The applicant is requesting a Major Design Review approval, which addresses: 1) Raising the residential structure to create a third story and providing an addition at the rear of the residence; 2) Reconfiguring the front staircase and front porch and expanding the garage door; 3) Constructing a detached two-story structure in the rear yard that would serve as an

additional dwelling unit. The site is located within an R-2 (Two-family Residential Zoning District). (DB)

Mr. Brighton presented the staff report. Staff recommended approval of this item.

The public hearing was opened.

Ms. Joanne Chandler noted that she owned the property north of and adjacent to the applicants' property, and spoke in support of this project. She had no objection to the applicants' plans to improve their home, and had been assured that the work would not be too disruptive. She noted that the applicants' had elderly parents whom they would like to bring into the home. She could see nothing detrimental about this project.

Ms. Tracy Coté believed such additions compromised the integrity of the neighborhood aesthetic, and believed that too few of the additions, which she considered to be poorly thought-through, were noticed or debated. She believed the proposed changes would negatively impact the historic façade. She was concerned about the double-wide garage, which was not typical for this neighborhood. She expressed concern that the addition would not fit in with the area, and would degrade the surrounding historic residences. She requested that the applicants be directed to redesign an addition that would suit their needs, but would not negatively impact the surrounding neighborhood.

Ms. Donna Talbot, applicant, noted that pursuant to the last Planning Board meeting, all of the criteria for the approval had been met. She noted that they no longer needed any variances, were in compliance with all Alameda Municipal Codes, resolved the height problem with the house, and had incorporated the Planning Board's recommendations. She believed the photographs were biased, and noted that they preferred to follow the Board's recommendations and move forward rather than start the project again. She noted that the public hearing had been closed at the last meeting. She noted that the new elevations incorporated the suggestions from the January 28, 2008, meeting, as well as suggestions made by Planning Services Manager Jon Biggs. She noted that the front elevation on page 1 eliminated the massive stucco at the front and opened up the porch. She believed staff's suggestion of adding an open porch was excellent, and that it improved the look of the project.

Ms. Talbot noted that the driveway did not cut down, did not look out of place with the rest of the neighborhood, and the front yard had a nice flow to it. She noted that the two-car garage had a single-car entrance off the street, which was similar to many properties off Fernside Blvd. She believed the driveway was attractively incorporated into the design. They redesignated the boathouse as a second dwelling unit, and that they no longer needed any variances. She noted that at the last Planning Board meeting, they discussed the height of the structure, and noted that page 4 explained the changes in the height from the existing to the proposed height. She noted that they reduced the height from 31'9" to 30' to meet the AMC requirement. She noted that the redesigned the front roof to a gabled style in order to reduce the roof height by the nine inches. However, design review staff did not like that concept and upon further reflection, neither did she and the co-applicant. They agreed to maintain the gable-style roof at the front of the house during the March 5 meeting with Jon Biggs and Dennis Brighton. Mr. Biggs had suggested that

since the nine-inch roof ridge was not a living space or attic, that it could be considered an architectural element, and extend beyond the 30-foot maximum. She and her husband agreed with that suggestion, and stated that they would incorporate that design into the design of the project. They displayed the new roof angle on the overhead screen.

Ms. Talbot noted that Board member Cunningham stated at the last Planning Board meeting that they were well within their rights to raise the height of the structure to 30 feet. They believed that based on Mr. Biggs' suggestion, that the height and design issue of the front roof was resolved. With respect to Mr. Brighton's comments relating to the new roof at the rear of the structure, she noted that was the first time that Mr. Brighton had voiced that recommendation, and they did not believe this was an appropriate time to bring new suggestions to the table. She noted that none of the neighbors she or the co-applicant had spoken to voiced any concern about the project. She noted that the only opponents to the project that she was aware of were the Alameda Architectural Preservation Society, Mr. Brighton and Ms. Coté. She believed the proposed project met the objective and the intent of Chapter 13s and 30 of the Alameda Municipal Code, and represented a reasonable balance between their development objectives as the owner of the property, including handicapped accessibility and the community's desire to preserve its architectural quality and historic identity.

Mr. Christopher Buckley displayed several slides on the overhead screen, and noted that a letter the AAPS had addressed to the Historical Advisory Board was included in the packet. They had not seen the revised design, and expressed appreciation to the applicant for their efforts to reduce the building heights and improve the front elevation. AAPS agreed with staff that the building should not be lifted at all, and that the building was already significantly higher than other buildings in the neighborhood. They believed that lifting the building further would distort its proportions, and did not see why it needed to be lifted because there was an extra two feet of headroom in the garage. AAPS agreed with staff that excavating would be the preferred approach. The appearance was boxy and not consistent with the Craftsman style. They believed if the eave were to be reduced and cross gables or dormers were introduced to handle the upstairs windows, as was done on the front elevation, the building would have a much more integrated Craftsman design. He noted that the six-foot addition consisting of the porch over the garage broke the setback line and introduced a significant new building mass which projected into the street. He noted that the double-wide garage became a dominating element, although it was broken up by the Craftsman doors.

Ms. Nancy Hurd noted that she lived two blocks away from this house, and believed that his house was bigger than other houses on the street. She favored the excavation to reduce the amount of height, but questioned the changes that would take it away from the Craftsman style. She did not believe the house looked symmetrical in the drawings, and would like to see the original design of the house retained as much as possible, and not raising it any further.

Mr. Seth Hamalian noted that he lived two doors down from the applicants' home, and had often heard comments from people that the homes in this neighborhood had character. He liked the uniqueness of the homes in Fernside, and noted that one style did not dominate the neighborhood. He strongly favored allowing the applicants to go forward with their proposed design, and believed the message being sent by this process should be considered. He did not



believe this process should be so arduous for the applicants, and that their home should not be placed under a magnifying glass. He urged approval of this item.

The public hearing was closed for Board discussion.

Vice President Kohlstrand noted that she had taken issue with the height, the façade and the fact that the variance was being sought when this item was first heard. She believed the revisions addressed those issues. She noted that Mr. Buckley's letter mentioned the Golden Mean, and was concerned that it was not discussed in the staff report.

Mr. Brighton noted that the Golden Mean issue was a general issue discussed with respect to historic homes, generally Victorians and revival homes. He noted that Craftsman homes received special treatment in the design guidelines. In this case, Craftsman had certain proportionality, including a lower proportional base which meant they stayed low and wide. He noted that staff was critical of popping up Victorians and creating front staircases that were inconsistent with the scale of the structure, as well as the architectural integrity of the structure. Staff believed it was critical to maintain the integrity of the Craftsman structure.

Board member Ezzy Ashcraft noted that this kind of discussion made a better community, and that it returned to the drawing board by mutual agreement of the applicant and staff. She requested that Mr. Brighton explain the difference between a bungalow and a Craftsman home, which he did. She was concerned about the relocation of the stairway, and noted that most of the homes in the neighborhood did not have center porches and center walkways. She liked the porch treatment, and believed the double-wide garage doors were in proportion to the rest of the house. She was concerned with an item brought up by the AAPS, and did not want to see a home tower over its neighbors. She believed the 30-foot height limit was fine, and inquired about the 9-inch architectural element. She did not believe the roof in the front added enough detail, and liked the back of the house. She agreed with Mr. Buckley's comment that the sides of the house that they would be made to look more authentic in the Craftsman style with bay windows. However, the only people who would see the side of the house would be the adjacent neighbors.

Mr. Cunningham believed that a lot of progress had been made since the last hearing, and that the appearance of the front of the house looked much better. He believed the excavation would be a detriment, and would like to maintain the 30-foot height limit. He believed the appearance would be improved if some relief were to be added to the roof. He would like to see improvements to the side of the house visible from the street, rather than encumbering the applicant with architectural gyrations on the back of the house. He believed the design looked much better than it had before.

In response to an inquiry by Board member Autorino regarding the details of the excavation the applicant, displayed and described the method by which the excavation would be accomplished. He noted that they planned a very expensive installation of an elevator so their parents would have access to the entire house.

In response to an inquiry by President Cook why the extra nine inches would be necessary, and why the ceiling height could not be 8'6", the applicant replied that he would not be certain the

handicapped vans in the garage. He noted that he could research that issue and added that it was difficult to get his pickup truck in the garage at this time.

Ms. Talbot added that there were substantial support beams in the garage, so the effective ceiling would be lower.

President Cook noted that there was a slippery slope, and that the current height limit was 30 feet. She noted that it was difficult to treat one case differently.

Ms. Talbot noted that was the reason that Mr. Biggs came up with the architectural element, so they would be in compliance with the Alameda Municipal Code, and so that a variance would not be needed.

Vice President Kohlstrand noted that no variance was involved in this case, and that the staff interpretation was that it did meet the height requirement.

Mr. Brighton stated that the staff interpretation was that it would meet the height requirements if the house was not raised. However, if the Board decided to change the condition to raise the house, then the proposal of using the architectural element was acceptable to staff.

Ms. Talbot described the orientation of the house towards the water, and that no one looked at it from behind. She added that it was not strictly a Craftsman style house in the back, and that an addition in the back was constructed in 2000.

President Cook noted that the structure behind the house was very nice.

Board member Ezzy Ashcraft noted that she did not see the discussion with Mr. Biggs reflected in the staff report.

Ms. Talbot noted that she was surprised by that issue, and stated that they left the meeting with the design review staff, believing that the issues had been resolved. She believed that their appearance before the Planning Board was more of a courtesy to tell them how they had incorporated the Board's suggestions.

Board member Ezzy Ashcraft inquired if nine inches was all that kept the Board from being able to find in the applicants' favor, and whether there was any way to shave nine inches off. Ms. Talbot replied that they came forward with the proposal for the gable roof, which they did not particularly like, in an attempt to shave nine inches off the roof. She had not realized how difficult that would be, and added that the height of the garage was very important to them.

Board member Ezzy Ashcraft noted that she understood what the applicants intended to do with the garage. She also felt strongly about the 30-foot height limit, and added that the Planning Board was not aware of the nine-inch architectural detail.

Board member Cunningham noted that they would be able to have up to a 5% slope for handicapped access, and that a berm at the street would keep the water out.

Ms. Talbot believed that Condition 1 addressed the back roof, which was a new roof that was not part of the old Craftsman house.

Board member Cunningham believed that was open to opinion, but that the 30-foot line was clear from the Planning Board's point of view. He shared President Cook's concern that if this height extension were to be allowed, then other residents would ask for the same allowance or greater.

The applicant inquired whether the project would be able to move forward if the nine-inch architectural feature were to be removed. Board member Cunningham believed that would be the case if the roof ridge were to go down nine inches.

In response to an inquiry by Vice President Kohlstrand whether the pitch of the roof would need to be changed in that case, Board member Cunningham replied that would not be the case.

Ms. Talbot noted that they were trying to preserve the look of the roof, but if the 30-foot height limit was more important, that would be fine with them.

Board member Cunningham noted that the Planning Board must either follow the Alameda Municipal Code, or make finding that there was a unique characteristic about the property that would allow the height to be increased. He noted that the Board could not do that, and must follow the AMC; he added that the Board was not trying to single the applicants out, and intended to find a way to make the project work for them.

President Cook noted that the Planning Board had decided that the total height of the house was more important than the number of stories, particularly with respect to having a third story.

Vice President Kohlstrand noted that it was clear to her that the applicants were trying to complete this project in a way that would enhance the neighborhood, to have a house that was architecturally representative of the area, and in a way that could accommodate their needs and those of their parents.

Board member Ezzy Ashcraft suggested a second condition:

“The structure shall not exceed 30 feet in height regardless of the addition of any architectural detail.”

She believed that condition would allow the applicant to determine how to work within the 30-foot height limit.

Vice President Kohlstrand moved to adopt the draft Planning Board Resolution to approve a Major Design Review approval, which addresses: 1) Raising the residential structure to create a third story and providing an addition at the rear of the residence; 2) Reconfiguring the front staircase and front porch and expanding the garage door; 3) Constructing a detached two-story structure in the rear yard that would serve as an additional dwelling unit. The two special conditions will be removed, replaced by the following modification:

1. The structure shall not exceed 30 feet in height regardless of the addition of any architectural detail.

Board member Ezzy Ashcraft noted that it would be impossible for her to consider a guideline that she had not read prior to the meeting. She did not wish to be unfair to the applicant, and wished to do the most responsible job possible in making a determination regarding this application. She noted that if the applicant was comfortable with what the Board has come up with, that was fine; otherwise, they could request a continuance.

Board member Cunningham seconded the motion, with the following voice vote – 5. Noes: 0 Absent: 2 (Lynch, McNamara); Abstain: 0. The motion passed.

President Cook called for a recess.

**9-D. PLN08-0181 – Grand Marina Village Residential Development Master Plan Amendments.** Proposed Master Plan Amendment to reduce the number of affordable housing units required on the site from ten to five, and allow for five slightly larger lots. Applicant is also seeking a finding that the Island High School site, 2437 Eagle Avenue, is suitable for affordable housing, and the purposes of the Affordable Housing Requirements would be better served by construction of at least nine affordable units at the Island High site rather than five affordable units at the Grand Marina site. The Grand Marina site is zoned MX (Mixed Used Zoning District). The Island High site is zoned M-1 (Intermediate Industrial Manufacturing District). (AT)

Mr. Thomas summarized the staff report.

An extensive discussion about the details of the staff report ensued.

The public hearing was opened.

Mr. David Day noted that although he was a member of the Board of Education for the Unified School District, he was speaking on his own behalf rather than that of the District. He could not speak to the merits of below-market-rate housing in the City, but stressed his opinion that this Draft Resolution would be good for the District. He invited any questions related to the School District.

Vice President Kohlstrand inquired who initiated moving the affordable units off-site. Mr. Day replied that the School District first heard about this issue the previous Friday evening, and asked for more notice from City staff in the future. He noted that the City and District had been discussing affordable housing on the Island High site for many years, and that the site had been vacant. He believed this project would increase their opportunities.

Board member Ezzy Ashcraft noted that she was in favor of affordable housing at the old Island High School site. She noted that was something that other cities such as Santa Clara and San Jose had done for school district employees. She understood that the site was not currently zoned

residential, but was across the street from a residential neighborhood. She understood that the off-site inclusionary housing option was supported by legal precedent. She did not understand why the proposal to move the five of the 10 affordable housing units from the Grand Marina site to Island High School were the low- and very low-income homes, and why it could not be a mix of all three income-level qualified homes.

Mr. Day replied that in their discussions with City staff, staff preferred that they kept the moderate homes on-site. He noted that Warmington preferred that they be put off-site, because that would allow them to use other non-profit builders who required moderate-income homes in their mix; the City did not want that, and preferred that the low- and very-low-income moved off-site.

Board member Ezzy Ashcraft noted that the report and attachments referenced the possibility that if Warmington were allowed to build more than the proposed nine affordable units at Island High School, where there may be room for as many as 18 units, the proposal would be for credit to be given toward off-site inclusionary housing for projects not yet built by Warmington that they may contemplate. She was concerned with that possibility, and while she supported affordable housing and understood the 25% developer contributions toward affordable housing in redevelopment, Attachment 2 stated that the City wished to retain an “economically balanced community.” She did not want to see all the affordable housing bunched together in one area. She had been impressed with the previous Warmington design, which did a good job in integrating the affordable units with the market-rate units.

President Cook noted that she noticed an item in the affordable housing agreement which read, “Developer has requested that it be allowed to meet the project inclusionary requirement by developing five ownership units that will be affordable to moderate-income households on the property, and nine ownership for rental units that will be affordable to low- and very-low-income households off-site.” She inquired whether they preferred to mix the housing up more. Mr. Day replied that they agreed with the model of Bayport, which has moderate-, for-sale and low-income units dispersed throughout the project. The low- and very-low units were the for-rent units.

President Cook would like clarification on which policy would be utilized with respect to inclusionary housing. She noted that there were a lot of good reasons to put affordable housing downtown because of the number of services, grocery stores, and transit, but there were no projects to look at that even the School District has had a chance to consider.

Mr. Thomas noted that in terms of the timing, this item contained the finding about Island High School and the merits of the proposed amendments to the Master Plan.

Mr. Day noted that there was language that referred to “Island High or other equivalent sites...” He noted that he had already looked for other sites and had not found any. He noted that Island High School was the only feasible choice, and that time was of the essence.

Vice President Kohlstrand believed there was some benefit to the City to looking at this site. She noted that because this was on a School District site, it seemed that there may be more potential

units, and that the development seemed intended to provide affordable housing for school employees. She believed it would be very difficult for the school to mix the housing upon different sites. She believed that putting the units on one site was a very rational approach to trying to deliver these units. She would like Warmington to be able to have some flexibility in trying to accomplish this.

Mr. Thomas noted that the agreement and the amendments state that Warmington Homes would be able to try to make this project work. If they failed, it would be because they could not get the land from the School District, or the District would decide they did not want to develop housing on that site. He noted that this agreement would allow Warmington to get started with the phasing. He noted that they needed the ground lease from the school district.

Vice President Kohlstrand believed that Warmington was taking all the risk in this project.

Mr. Thomas noted that (F) on page 9 stated, “Developer shall secure all necessary discretionary City and other governmental agency permits and approvals to allow development of the off-site affordable development to proceed upon issuance of a building permit by the City.

Mr. Day noted that this was brought forth to create goodwill with the City, and added that they were willing to take the time to entitle this project.

Board member Cunningham noted that he originally had reservations about this item, but after reading the staff report, he saw a lot of merit to the idea of putting the housing in this location, which would help rejuvenate downtown and the schools. He wished to discuss the modifications to the Grand Marina Plan, and the idea of putting three-story buildings in, instead of two-story buildings.

Mr. Thomas noted that Warmington’s proposal was to replace five of the affordable units with five market-rate units at Grand Marina. Under the original approvals, the market-rate units were all three-story buildings, and the affordable units were all two-story buildings. He believed the change was for financial reasons.

Mr. Day noted that there were many costs involved with doing the all-affordable off-site projects, such as the shortfall between the tax credits for the non-profit organization and the actual cost, which Warmington Homes funded. He noted that the density was still the same.

Board member Cunningham believed the units were too dense in their previous iteration, and supported taking the inclusionary housing to another site. He did have problems with the exchange of making this a denser development.

President Cook believed the tradeoff with the park parcels was a good one, but was concerned about losing the sidewalk.

Mr. Thomas noted that a sidewalk in an alley seemed odd, so it was not an issue for staff.

The public hearing was closed for Board discussion.

Vice President Kohlstrand moved to adopt draft Planning Board Resolution to approve the staff recommendation to accept the Master Plan Amendment to reduce the number of affordable housing units required on the site from ten to five, and allow for five slightly larger lots. Applicant is also seeking a finding that the Island High School site, 2437 Eagle Avenue, is suitable for affordable housing, and the purposes of the Affordable Housing Requirements would be better served by construction of at least nine affordable units at the Island High site rather than five affordable units at the Grand Marina site.

Board member Ezzy Ashcraft proposed an amendment to the resolution to move the five affordable housing units moved off-site to the Island High site to be moderate- to below-income, and for one unit to be very-low-income.

Mr. Day noted that the *pro forma* was based on having the five moderate-income units on-site.

Board member Ezzy Ashcraft noted that Attachment 1 discussed approving additional affordable housing for future credit, and would like to take one project at a time. She liked the idea of the affordable housing being located on the Island High site, which would be a benefit to the school district.

Mr. Thomas noted that the Planning Board's point about the housing mix may be made as a recommendation to the City Council. The Master Plan and the finding about Island High do not specifically discuss that issue, but the proposed amendment to the motion could be included as a recommendation to the Council.

In response to an inquiry by Board member Ezzy Ashcraft whether the finances would not be feasible if the low- and very-low-income units were placed on the Grand Marina site, Mr. Day confirmed that was correct because there was a considerable amount of funding from their pocket to do the off-site placement. She noted that the second full sentence of Attachment 1 (page 2 of 3) read, "Furthermore, the Planning Board's recommendation regarding the Island High site constitutes a finding about the potential benefits of a potential future project for the City's affordable housing program." She believed it was a great location for affordable housing for qualified school district employees, but did not want to get into approving moving affordable housing off-site for future developments that the City had not even seen yet.

Vice President Kohlstrand did not want to hamstring the site so that only a portion of the project's goals could be accomplished. She noted that the goal of the project was to provide affordable housing for school district employees.

Mr. Day noted that they would put in as many units in as possible, and that there would be more than nine units.

President Cook noted that the Planning Board would like to maximize the mix of types of affordable housing units, certainly on the Island High site and possibly on the other site. She requested that Ms. Faiz ensure that the Planning Board did not abdicate its right if the Island High site did not work out, and that alternative sites would be brought forth.

Mr. Thomas noted that the following modifications would be added:

1. The Planning Board recommended to City Council to consider that some moderate-income housing and some low- and very low-income housing move off-site and some stay on-site;
2. If Warmington Homes pursues another market-rate project at some other location, the suitability of the Island High site as the off-site location for that project should have to return to the Planning Board for the same finding that is being examined for the Grand Marina site.

Vice President Kohlstrand expressed concern about the second modification, because it gave no incentive to Warmington Homes to maximize the development on the Island High site.

Board member Ezzy Ashcraft noted that she did not want to look at every new project come along in a redevelopment area with a 25% inclusionary housing requirement, and that the units would all be taken off-site. She understood that this effort was a balancing act. She inquired whether there would be a way to achieve a mix of different income levels and housing sites.

Vice President Kohlstrand noted that would be a financial issue, and why the applicant should be obligated to pay for an additional nine units out of their pockets.

Mr. Day noted that they wanted the right to use those units on future projects, but that they were willing to examine in on a case-by-case basis to make sure it was appropriate for each individual project.

Mr. Thomas noted that Section 3.7 on page 9 of the agreement stated that in the reduced off-site alternative, “Offsets for future development: Subject to all City, Commission and other discretionary approvals, including any required Planning Board findings, for a period of ten years following issuance of certificate of occupancy for the Island High site, subject to extension ...”.

Board member Ezzy Ashcraft noted that the section only applied to low- and very-low-income households: “There shall be no offset allowed under this section for offsite additional units that are rented or sold to moderate income households.”

Mr. Thomas noted that the first point to be made to City Council was that the moderates should be mixed up with the low- and very-low income units.

Mr. Thomas noted that the other issue was whether Island High would return to the Planning Board as the offsite alternative for some future project. He believed that under the ordinance, and under the agreement, it would be required to do so. He believed the working assumption for the Planning Department and the Development Services Department was that the Island High site would be a very good affordable housing project, and was the eastmost site of the projects the City envisioned.



Board member Ezzy Ashcraft noted that the language would return to the Planning Board for Item 2, but would still like the recommendation to go to the CIC that all three levels of affordable housing be put in the mix for the off-site project.

Board member Ezzy Ashcraft seconded the motion as amended, with the following voice vote – 5. Noes: 0 Absent: 2 (Lynch, McNamara); Abstain: 0. The motion passed.

**9-E. V07-0008 and Design Review, DR07-0048 – 1607 Pearl Street/2622 Edison Court.**

The applicant is seeking Variance and Design Review approval for adjacent properties. A second building to be built 5 feet from the rear property line, where a 20-foot required rear yard is usually required and 3 feet from the side property line, where a 5-foot side yard setback is usually required. Encroachment into the rear and side yard setbacks requires a Variance. The proposed new structure is an 868 sq. ft. hobby woodworking workshop. The project will also require a lot line adjustment to transfer a portion of 1609 Pearl Street to 1607 Pearl Street. The property is located within the R-1, one family residence, zoning district. (LA)

Mr. Garrison presented the staff report, and noted that staff was unable to make two of three required findings for the variance. Staff was able to make the finding that the project would not be detrimental to the public welfare, or adversely affect the neighboring properties. If the variance was not approved, the design review would be considered a moot point. Staff recommended denial of the variance and the design review at this time.

The public hearing was opened.

President Cook noted that there were no speaker slips, but that she had been asked to read a public comment into the record:

“The property owner at 2620 Edison Court, Mary Liley, called to voice her disapproval of the proposed project. Her concern was that the building would like house a commercial woodworking shop that would create a lot of noise. She was unable to attend the meeting tonight.”

Mr. Bob Rollins, applicant, disagreed with staff’s assessment that there was no unique situation with respect to this project. He requested this project because he was disabled from his previous job as a 28-year veteran of the Berkeley Police Department. He was unable to do any other jobs because of his disability, and added that the building was as high as it was because he wanted to install a hoist in the building. He proposed putting solar panels on the roof with the intention to make it a zero-use residence. He noted that required the installation of fairly large trusses to support the weight of 39 panels, to produce a 5.5- to 6-kilowatt system, with a three-day battery backup system. He intended to install a water reclamation system for stormwater. He noted that with respect to the solar panels, the Fire Department required a three-foot space around the outside, and three feet between each row to enable access for inspection or emergencies. He noted that the parapets were three feet high in order to screen the mechanics from the neighbors’ sight. He believed the size and shape of the building were exceptional, and that the findings

could be made. He noted that the rules for lots were written for 50' x 100' rectangular lots, which accounted for two-thirds of the lots in the City. He noted that he could build the proposed building with a minor footprint change using the same square footage without requesting any variances. He noted that half the block was R-4 zoning, and half was zoned R-1; the lots in the R-1 zone could accommodate this size building with a minor footprint change without requesting any variances, and that they could meet all the setbacks. He noted that the lot was actually Z-shaped. He submitted four letters of support from neighbors who were unable to attend the meeting.

The public hearing was closed for Board discussion.

Board member Autorino asked the applicant whether he could build the structure to a height of 15 feet, so he could place it wherever he wanted. Mr. Rollins replied that he could, and that he would have to call it a garage/storage building rather than a workshop. However, he would not be able to put the hoist in, but could get the trusses in for the solar panels. He noted that he needed the hoist to pick materials and projects up because of his disability. He noted that he wished to screen the solar panels and braces from the neighbors' view. He noted that a power pole went through the lot, and he had negotiated with his neighbors and AP&T to get it removed.

Vice President Kohlstrand noted that many people used their basements and garages for woodworking. She was concerned that this activity was being treated as a commercial activity, which she did not believe was the case for this applicant.

Mr. Thomas noted that the Accessory Structure Ordinance stated that the use should be a U-Occupancy. He assumed the amendment was made in the past to prevent illegal conversions to second units. In this case, the Building Code classified it as an F-Occupancy. The second issue was the height.

Board member Ezzy Ashcraft noted that page 3 of the staff report discussed the definition of an accessory structure, and inquired whether this could be considered two lots. Mr. Garrison replied that it was considered part of the next-door neighbor's lot.

In response to an inquiry by Board member Ezzy Ashcraft whether the building could be considered incidental because it provided solar power for the main building, Mr. Garrison replied that it would not be a U-Occupancy building in either case.

Mr. Garrison noted that the Building Code was clear in defining this use as a factory occupancy, and not subject to interpretation because of the proposed use of woodworking.

In response to an inquiry by Board member Ezzy Ashcraft whether this proposed use could be considered a hobby, Mr. Garrison replied that had been discussed with the Building Official, and that it was not relevant to the Building Code whether it was commercial or non-commercial; woodworking was a listed use.

President Cook inquired whether a driveway could reach the garage.

Mr. Garrison noted that it could be called a storage building.

President Cook noted that she would not be able to make the findings, and was not sure she could make the finding that it would be detrimental to the neighborhood. She was aware of the noise made by a planer, and that this property adjoined six different properties.

Board member Cunningham noted that he could not make the findings, either, and suggested that the applicant resubmit the application under a different use. He would have an issue with design review, and noted that it was a big box in the backyard. He appreciated the use for the parapet to hide the mechanicals, but added that it made the structure even higher.

Vice President Kohlstrand moved to extend the meeting to 11:30 p.m.

Board member Ezzy Ashcraft seconded the motion as mended, with the following voice vote – 5. Noes: 0 Absent: 2 (Lynch, McNamara); Abstain: 0. The motion passed.

Board member Cunningham noted that he was concerned about open space and hardscape, and would like to see the entire site plan.

Vice President Kohlstrand noted that she would like to approve this project, but could not make the findings.

Vice President Kohlstrand moved to adopt draft Planning Board Resolution to deny a Variance and Design Review approval for adjacent properties. A second building to be built 5 feet from the rear property line, where a 20-foot required rear yard is usually required and 3 feet from the side property line, where a 5-foot side yard setback is usually required. Encroachment into the rear and side yard setbacks requires a Variance. The proposed new structure is an 868 sq. ft. hobby woodworking workshop. The project will also require a lot line adjustment to transfer a portion of 1609 Pearl Street to 1607 Pearl Street.

Board member Ezzy Ashcraft seconded the motion as amended, with the following voice vote – 5. Noes: 0 Absent: 2 (Lynch, McNamara); Abstain: 0. The motion passed.

9-F. **PLN07-0301 – Zoning Text Amendment. Applicant: City of Alameda.** The City of Alameda is considering an amendment to the Alameda Municipal Code to prohibit retail stores larger than 90,000 square feet in size that include more than ten percent (10%) floor area devoted to the sale of non-taxable items. The proposed prohibition would apply in all zoning districts in the city. (DG)

Mr. Garrison summarized the staff report.

The public hearing was opened.

Mr. Mike Hennebury, 2811 Otis Drive, noted that he was a union representative for the Union Food and Commercial Workers Local 5. He noted that Local 5 had been involved with big box

ordinances for several years, and that they initially saw it as a way to alleviate the threat perceived from WalMart entering the northern California market with their supercenters, and shifting market share from traditional union grocers who employ their members, back to the Arkansas headquarters of WalMart. They believed that shift threatened the stability of union jobs in northern California, and weakening their contracts, which had taken years for them to build. He noted that it was important to protect their members' standard of living and the integrity of the collective bargaining agreements that had been negotiated on their behalf. He believed that the impacts of the big box stores on their communities were varied, and that there was a possibility of the downtown districts to be decimated. He noted that in his travels across the country, he had noticed that a WalMart in a town was accompanied by a downtown district with boarded-up storefronts. He added that WalMart representatives state that their supercenters create a synergy of local businesses that drive sales for everybody, which he did not believe to be true. He supported this amendment, which he believed would preserve the downtown business districts and the characteristics that make Alameda a special place. He believed this ordinance would ensure that the development of Alameda Point would be conducted in a responsible manner.

In response to an inquiry by President Cook whether he was mostly concerned with the grocery components, Mr. Hennebury replied that his union represented the grocery store employees, and that was his primary concern. He believed that the discount portion of a supercenter were cutthroat competitors with local businesses, and would unfairly disadvantage them as well.

The public hearing was closed for Board discussion.

Vice President Kohlstrand inquired why this ordinance only dealt with food sales, and whether a Home Depot would be allowed while a Costco would not. Mr. Thomas replied that was correct, and that the large format amendment was brought forward using the same position that more control was needed over retail development in Alameda. He noted that the Livermore ordinance was very similar to what the City Council wanted. Vice President Kohlstrand noted that she would be willing to limit development over 90,000 square feet, and that the food element would not be a limiting factor.

Board member Ezzy Ashcraft noted that the table contained in page 4 of the staff report. She inquired whether the purpose of the text amendment was simply to prevent K-Mart, WalMart and similar stores, and whether the smaller retailers would also suffer if a Costco or Home Depot came into Alameda. She suggested prohibiting retail establishments that exceed 90,000 square feet.

In response to an inquiry by Board member Ezzy Ashcraft regarding the proposed square footage for the Target that had been proposed for the Alameda Towne Centre, Mr. Garrison replied that it was 147,000 square feet, and that the Safeway in Town Centre was approximately 60,000 square feet. She noted that Home Depot may exceed 90,000 square feet, but would not include the floor area for nontaxable goods. She would be more comfortable prohibiting retail establishments that exceed 90,000 square feet in size.

Mr. Autorino noted that prohibiting any retail use over 90,000 square feet cut down a great deal of the economic development opportunity for the area, and that there may be a use of that size that the City would want to have. He did not want the City to enter into any prohibitions that would invite legal trouble.

President Cook noted that there were both planning and economic development aspects of such an ordinance that should also be discussed at the Economic Development Commission. She noted that she shopped at Target on occasion, and while there were many groceries at Target, she did not buy them there.

In response to an inquiry by Board member Ezzy Ashcraft regarding the square footage of the large hangars at Alameda Point as they relate to adaptive reuse, Mr. Thomas noted that the large hangars were over 100,000 square feet, and the smaller hangars were approximately 60,000 square feet. He noted that the City proposed creating a Master Plan for Alameda Point, which essentially writes a zoning code for that portion of the City. He noted that theoretically, an exception to a big box prohibition could be included in the Master Plan for a specific area. He noted that several studies done over the years have revealed significant sales leakage from Alameda, and that staff believed that to avoid sales leakage, control of the retail development was necessary.

Board member Ezzy Ashcraft noted that Building A was the largest building in the Alameda Landing retail center at 55,000 square feet.

Mr. Thomas noted that Catellus was currently working with Target, and would propose a different site plan.

Board member Cunningham believed it was important to have a safety valve in place to control the retail projects that come before the Planning Board.

Board member Ezzy Ashcraft suggested sending some recommendations to City Council to clarify the Board's position and to provide direction for their action.

Mr. Autorino noted that the Economic Development Commission was adamant in not wanting to do things that limited the economic development opportunities of the community. The EDC did not want to send the message that Alameda did not want to consider retail opportunities larger than a certain size. He supported measures to manage and control large format retail, but not to discourage it.

Mr. Thomas noted that the Planning Board may pass along a recommendation at this time, or continue it to allow staff to return with more specific information. Staff could bring the item back to the EDC, and that they had not received their input on this item.

Board member Ezzy Ashcraft noted that there had been much discussion about wanting to see a higher level of retail at Alameda Towne Center, but that the Board had been disappointed by some of the offerings. She noted that Kohl's did not appear to be as much of an improvement from Mervyn's as it could have been. She inquired whether there should be some safeguard in

place to temper very large projects. She believed the City should be able to maintain some control over quality of retail issues to the extent possible.

President Cook noted that there would be some large projects that the Planning Board would like, and others that it would not, regardless of the percentage of food items. She believed the 10% of floor area dedicated to food sales was a union issue. She noted that while she generally supported unions, she did not believe it would be a good planning issue. She believed that it would be very important to define the planning issues.

Board member Cunningham noted that the community would likely be happy to see a 95,000 square foot Macy's in Alameda, but that under this ordinance, it could not be approved.

Vice President Kohlstrand noted that it seemed that the Planning Board liked what it originally said, and that it would be important for EDC to weigh in on this ordinance before the City Council heard it.

President Cook agreed with Vice President Kohlstrand's assessment, and believed it was very important to have the EDC's opinion, and that it was ultimately a City Council issue.

With respect to the 90,000 square foot issue, Board member Ezzy Ashcraft noted that she would like to see more negotiation on the City staff level in working out acceptable square footage levels with Developers.

In response to an inquiry by Board member Ezzy Ashcraft regarding the trigger for a use permit, Mr. Thomas confirmed that everything over 30,000 square feet would require a use permit, and would require the Planning Board to make the findings for a use permit approval.

Vice President Kohlstrand moved to confirm the Planning Board's original recommendation of defining a large format retail as one or more stores totaling 30,000 square feet and subject to use permit or planned development approval, and to recommend such to City Council. The Planning Board recommends that the Economic Development Commission weigh in on this matter.

Board member Cunningham seconded the motion, with the following voice vote – 5. Noes: 0 Absent: 2 (Lynch, McNamara); Abstain: 0. The motion passed.

10. WRITTEN COMMUNICATIONS: None.

4. MINUTES:

a. Minutes for the meeting of April 14, 2008.

These minutes will be considered at a later meeting.

b. Minutes for the meeting of May 12, 2008.

These minutes will be considered at a later meeting.

- c. Minutes for the meeting of May 27, 2008.

These minutes will be considered at a later meeting.

6. PRESENTATIONS:

- a. Staff Communications – Future Agendas

Mr. Thomas provided an update on future agenda items.

- b. Zoning Administrator Report

There was no report.

11. BOARD COMMUNICATIONS: None.

12. ADJOURNMENT: 11:34 p.m.

Respectfully submitted,

Andrew Thomas, Secretary  
City Planning Board

This meeting was audio and video taped.